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Acting United States Trustee for Region 18, Plaintiff

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON**

In re

Peter Szanto,

Debtor.

United States Trustee,

Plaintiff,

v.

Peter Szanto,

Defendant.

Case No. 16-33185-pcm7

Adversary No. 18-03022-pcm

**UNITED STATES TRUSTEE'S
OBJECTION TO DEFENDANT'S
MOTION FOR TERMINATING
SANCTIONS**

The Acting United States Trustee for Region 18, Gregory M. Garvin (the "United States Trustee"), the plaintiff in the above-referenced adversary proceeding, hereby objects to the Motion for Terminating Sanctions for Plaintiff's Continuing Discovery Abuses (the "Motion") filed on November 23, 2018, by Peter Szanto (the "Defendant") as ECF document no. 157.

The Motion seeks sanctions for alleged discovery abuses by the United States Trustee. The allegations in the Motion against the United States Trustee are without any factual or legal basis, and they are unsupported by any admissible evidence. Based on that, the United States Trustee respectfully requests that the Motion be denied.

The Defendant is apparently upset because the United States Trustee once again attempted to provide him with some of the documents he has requested. The United States Trustee could have waited for the Court to enter an Order resolving the issues discussed at the November 13, 2018, telephonic hearing on the Defendant's motion to compel discovery. However, we decided that in the interim we would go ahead and deliver to him all of the documents the United States Trustee relied on in preparing the Complaint - knowing that we might need to supplement the production at a later time depending on the Court's ruling.

As set forth in Ms. McClurg's letter filed as ECF document no. 156, on November 16, 2018, the United States Trustee shipped a package via Federal Express (no signature required) to the Defendant's residence. The Defendant had agreed after the recent hearing to receiving documents in that manner. The package contained a cover letter from Ms. McClurg, a CD with numerous documents labeled "Documents from UST" and a CD labeled "Fed Ex Surveillance." *See Declaration of Amy Schaffer in Support of United States Trustee's Response*, ¶¶ 2-3, filed concurrently herewith.

In the Motion, the Defendant alleges that the package sent to him only contained the CD labeled "Fed Ex Surveillance." As Ms. McClurg's letter, and Ms. Schaffer's declaration make clear, the Defendant is not being truthful about what he received.

Based on the difficulty the United States Trustee continues to have in delivering documents to the Defendant – or more accurately, in getting the Defendant to accept and acknowledge receipt of documents – it is clear is that any future effort by the United States Trustee to provide documents to the Defendant needs to be pursuant to a clear and unambiguous procedure that the Defendant cannot dispute or misrepresent. To accomplish this, the United States Trustee recommends that the Defendant be required to pick up documents at the United States Trustee office closest to him, which appears to be the Santa Ana office located at 411 West Fourth Street, Suite 7160, Santa Ana, CA 92701. The documents can be in hard copy, and include an inventory listing the Bate-stamped pages included in the production. The Defendant

can verify what he is receiving, and sign an acknowledgement of receipt so that there can be no misunderstanding regarding what documents were produced.

In summary, the Motion provides no basis for the relief requested and it should be denied. To avoid these types of motions in the future, the United States Trustee requests that the Court implement a specific procedure for the future delivery of documents to the Defendant.

DATED this 7th day of December, 2018.

Respectfully submitted,
GREGORY M. GARVIN
Acting United States Trustee for Region 18

/s/ Martin L. Smith
Martin L. Smith, WSBA #24861
Trial Attorney

CERTIFICATE OF SERVICE

I hereby certify that on December 7, 2018, I served a copy of the foregoing **UNITED STATES TRUSTEE'S OBJECTION TO MOTION FOR SANCTIONS** by mailing a copy of this document, by United States first class mail, postage prepaid, addressed to the following:

Peter Szanto
11 Shore Pine
Newport Beach, CA 92657

GREGORY M. GARVIN
Acting United States Trustee for Region 18

/s/ Cori Gustafson
Cori Gustafson
Paralegal